

SENATE BILL NO. 201

INTRODUCED BY F. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LOCKS ON ANHYDROUS AMMONIA TANKS; REQUIRING THAT FUNDS FOR THE LOCKS BE PROVIDED FROM STATE DRUG FORFEITURE FUNDS OR FROM AVAILABLE FEDERAL GRANTS; REQUIRING IMPLEMENTATION OF THE LOCK REQUIREMENT AS FUNDS BECOME AVAILABLE; AMENDING SECTIONS 44-12-206 AND 80-10-503, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Funding for locks on anhydrous ammonia tanks.** (1) The requirement in 80-10-503(1) that locks be placed on anhydrous ammonia tanks is effective only when the funding set out in subsection (2) becomes available and must be implemented in the manner provided in subsection (3).

(2) Funds to cover the expense of locks on anhydrous ammonia tanks, as required in 80-10-503(1), must be derived from:

(a) federal grants obtained by the department or the department of justice for locks on anhydrous ammonia tanks; or

(b) net proceeds in excess of \$125,000 that are received by the state under 44-12-206(1)(d) and (1)(e) and that are deposited in the state special revenue account under 44-12-206(3)(b) as a portion of the proceeds from drug forfeiture sales.

(3) The owner of an anhydrous ammonia tank may apply to the department or the department of justice for reimbursement of the cost of purchase of a lock for the owner's tank. Funds that become available under subsection (2) must be spent on a county-by-county basis for the purchase of locks for anhydrous ammonia tanks required under 80-10-503(1).

Section 2. Section 44-12-206, MCA, is amended to read:

"44-12-206. Disposition of proceeds of sale. (1) Whenever property is seized, forfeited, and sold under the provisions of this chapter, the net proceeds of the sale must be distributed as follows:

(a) to the holders of security interests who have presented proper proof of their claims, if any, up to the

1 amount of their interests in the property;

2 (b) the remainder, if any, to the county treasurer of the county in which the property was seized, who
3 shall establish and maintain a drug forfeiture account and deposit the remainder into the account, except as
4 provided in subsections (1)(c) through (1)(e);

5 (c) if the property was seized within the corporate limits of a city or town by a law enforcement agency
6 of that city or town, the remainder, if any, to the city or town treasurer, who shall establish and maintain a drug
7 forfeiture account and deposit the remainder into the account, except as provided in subsections (1)(d) and
8 (1)(e);

9 (d) if the property was seized by an employee of the state, the remainder, if any, is allocated as provided
10 in subsection (3), except as provided in subsection (1)(e); and

11 (e) if the property was seized as a result of the efforts of more than one law enforcement agency, the
12 remainder, if any, to the accounts required by this subsection (1), pro rata in the proportions represented by the
13 agencies' expenses of investigation, as determined by the attorney general.

14 (2) All proceeds from any source that are deposited into a county, city, or town drug forfeiture account
15 must in each fiscal year be appropriated to and remain available until expended by the confiscating agency for
16 drug laws enforcement and education concerning drugs.

17 (3) (a) Each year, the first \$125,000 of net proceeds received by the state under subsections (1)(d) and
18 (1)(e) must be deposited in an account in the state special revenue fund to the credit of the department of justice.
19 The department may expend the money in the account only for purposes of enforcement of drug laws. An
20 amount up to \$125,000 each year is statutorily appropriated, as provided in 17-7-502, to the attorney general
21 for enforcement of drug laws. Any expenditure in excess of \$125,000 each fiscal year requires approval through
22 budget amendment, as provided in Title 17, chapter 7, part 4.

23 (b) Each year, net proceeds in excess of \$125,000 that are received by the state under subsections
24 (1)(d) and (1)(e) must be deposited equally between the state special revenue account and the general fund.
25 Proceeds deposited in the state special revenue account are subject to expenditure as reimbursement for locks
26 on anhydrous ammonia tanks required under 80-10-503(1), pursuant to the provisions of [section 1]."
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28 **Section 3.** Section 80-10-503, MCA, is amended to read:

29 **"80-10-503. Rulemaking authority and requirements.** (1) The department shall adopt rules for the
30 design, construction, repair, alteration, location, installation, and operation of anhydrous ammonia facilities. ~~Such~~

1 The rules must be in substantial conformity with nationally recognized safety standards for the storage and
2 handling of anhydrous ammonia. The rules ~~shall~~ must require the owner to place ~~his~~ the owner's name, ~~and~~
3 phone number, and a lock on ~~his~~ the owner's anhydrous ammonia tank or tanks. Placement of a lock on a tank
4 is subject to the provisions of [section 1]. An owner may voluntarily place a lock on the owner's tank and submit
5 a claim for reimbursement to the department or the department of justice when funds become available in the
6 owner's county pursuant to [section 1]. The department may adopt additional rules necessary for the protection
7 and safety of persons employed in anhydrous ammonia facilities, persons using anhydrous ammonia, and the
8 public. The department shall expend any federal grant money received for locks on anhydrous ammonia tanks
9 in the manner provided in [section 1].

10 (2) The rules must include a provision under which new or existing facilities may apply for a temporary
11 or permanent variance from any requirement of the rules. The rules must provide criteria for granting or denying
12 a variance request and must provide for written notice and public hearing on any variance request.

13 (3) The department shall coordinate its rulemaking activities with other executive branch agencies and
14 departments by providing them with timely information on the adoption of the rules, inviting and encouraging
15 their participation, giving due weight and consideration to their comments and testimony, and coordinating
16 interdepartmental meetings on matters pertaining to the adoption of the rules."

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18 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an
19 integral part of Title 80, chapter 10, part 5, and the provisions of Title 80, chapter 10, part 5, apply to [section 1].

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21 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2005.

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